App. F. IX-4

1928-29 (Law)

File No. 131-28

Serial Nos. 1—10

Previous References

Law 410-28/182

Later References

Law 53-28, 113

General and Revenue Secretariat.

Serial Nos.

Part B for Sep 1928

SUBJECT

Re. Loan of Rs. 10 lacs to Govt. of Bihar & Orissa for Bihar Flood Relief.

N Gupta
27.9.28

In the copy of the plaint, Govt is not mentioned as one of the Defendant.

The file relating to the recovery of Excise & Incometax dues from M/s M. Ranga Rao is put up. Reference is invited to para 2 of Mysore D.C's letter dated 5/6th June 1928 wherein mention is seen made of the suit filed by the Mysore Bank in the Dt Judge's Court, Mysore for the recovery of the amount due to the Bank in respect of the properties of M/s Ranga Rao which were sold by Govt for realising Govt dues.

The date fixed for hearing is 25th June and an acknowledgment of the summons & the copy of the plaint is asked for.

If approved this may be referred to the Law Asstt. for issuing necessary instructions to the Public Prosecutor, Mysore for to represent Govt in the case and to safeguard Govt interests.

marked down
Ag
20/6/29

Jt Secy 20/6/29

Item no 2 of the suit property was purchased by govt in an auction held for recovery of excise revenue due from M. Rangadas 2nd defdt in the suit. Govt is therefore made a party. There is practically no defence to the suit & govt can only claim the balance of the amount realised in Court auction after the prior encumbrances.

Draft of letters to Pr, mysore and to Distr Mgte but ul. to me.

RMJ
21.6.29

Chief Engr's Comps

Thanks
RG
21/6

Govt by Advte
Compliment

D Stanley
D.M.

Orders are required as to [illegible]
instructions to be sent to the Public
Prosecutor, mysore, as regards the
Defence to be filed on behalf of Govt
in the suit O.S. No 27/28. The nature of the
Suit is noted in the notes of [illegible] and
Kind refers is invited to [illegible] in the
Collection placed below (Exp.
the P.P. has to be instructed
the claim of the prior mortgagee
the property to be sold & claim [illegible]
remaining after satisfying the plaintiffs
Decree -

Dy
25/6/29

L-R.)

Three sums to be noted above
Sub-Judge's memo.

2nd Member

Decree

Draft

[illegible]

need not be signed. Draft to the
PP, giving him the
facts for

DMG
~~6.7.29~~
07/12

L-R.) Issues
P. C.

to, Public Prosecutor
Mysore
P 250/ dated 11.
sending their sister
Suit & requesting him
further progress in

Here no 15 dated 10th July 1929, from PP
enclosing two Vakalats sent for O.S.
suit No for O.S. 14/27/28 for signature of
1st Secy—

This may kindly be submitted to Chief
for signature to the two Vakalats—
Draft returning them putup

DMG
15.7.29
15/7

L.W. Secy) Signed
15/7

RG
11/7/29

Further report from P+S as to the Case may be awaited. Meanwhile this may be sent to the Financial ((Excise)) Branch for retaining the linked files & returning this after perusal.

yrs. ever
D M
[illegible]

(to Pvr)

Subject for perusal the linked Excise file will be retained in the Branch & kept in "Sus these papers
to Approp Branch as desired

Yes.
[illegible]

Approp Br. with compts.

2nd defendant, leaving a portion of the purchase money with Ramadas for partial discharge of his dues to Bank - Govt have purchased the right, title & interest of m. Ramadas in the property sold to him

Sec 56 quoted by the Pr is not applicable ~~Sec 8~~ It is rather Sec 81 of the T.P. Act that is to be looked into for the purpose. In this case however the result is the same whether Sec 56 or Sec 81 is applied - Since m. Ramadas has purchased subject to 1st mortgagee's right & has himself to pay to the Bank under the purchase, Govt cannot claim any marshalling against the Bank. In para 9 of his statement, Pr also is of the same opinion - Govt may unnecessarily be liable for costs if they put in such a defence - Opt to Pr put up

1.8.29 Secy)

2/8

2/8

To, The Public Prosecutor
Mysore.

P. 798/Law dated 2-
instructing that marshalling cannot be claimed.

Letter No: 86 of 13th August 1929 from PP Mysore, forwarding Off W.S for approval and Signature of Ch Secy/-

The PP confirms his previous opinion that marshalling cannot be claimed - The draft written statement admits the Pltff's claim & prays for a decree in form no. 7 appnd O.C.P.C, which is the usual mortgage decree -

The W.S may be subtd to Ch Secy for Signature -

Mp
14.8.29
Asst
14/8

L.R.)

Ch Secy
with comps

M
14/8

P.M.
14/8

M
15/8

PR
15/8/29
Dft returning the W.S.-b
the P.Pr.

M
15/8

Dft further

Mp
16/8
Asst
16/8

Issue
M
16/8

The Public Prosecutor
P 1136 dated 17.8.29
returning the WS duly sign-
by Ch Secy -

Letter no 139 dated 14.9.29 from
PWr mysore informing of the Consent
decree passed ~~by~~ in Suit Rama contractor Ranga Rao
Case - O/A of 28.28 Dt at mysore

Submitted for perusal before
being filed

mf
20.9.29

LR.)

20/9

21/9

20/9

47710

GEN. 5617 SEC'T.
20 JUNE 1929
L. S. G. BRANCH

GEN. & REV. SEC'T.
20 JUNE 1929
FINANCIAL BRANCH.

GEN. & REV. SECTT.
15. JUN. 1929
G. D. SECTION.

MYSORE SUBSIDIARY
MYSORE SECTION.

IN THE COURT OF THE DISTRICT JUDGE, MYSORE.

Original Suit No. of 1927-28

Plaintiff:- The Bank of Mysore, Ltd.,
Having its registered Office
in Sayyaji Rao Road, Mysore.

Vs

Defendants:-1. Mr. Sardar J.Gopalaraje Urs.,
son of Prince Gopalaraje Urs,
about 50 years old, residing in
Narasimharaja Bouleward, Mysore.

2. Mr. M.Ranga Rao, son of M.
Venkata Rao, Brahamin, about 46
years old, Contractor, residing
in Old Post Office Road, Mysore.

3. Thimmegowda alias Annegowda,
grand son of Thimmegowda, about
8 years old, minor by guardian
mother Yellamma, residing at
Nidaghatta, Mandya Taluk

Under Order VII Rule 1 and Order XXXIV Rule 1 of C.P.C.Regulation the plaintiff begs to state as follows:-

1. That in consideration of the promise of the plaintiff to advance monies to him by way of loan, overdraft, cash credit account or other manner of accounts, the 1st defendant executed the accompanying deed of mortgage deed dated 6-1-1919, mortgaging the properties mentioned in the schedule below for the sums then due and to be due from him and carried on transactions with the plaintiff.

2. That on 19-6-1924 the accounts were struck and a sum of Rs.25930-0-3 was found due from the first defendant, for which he executed the accompanying certificate of balance acknowledging his indebtedness to the bank as on that date.

3

3. That as per statement of accounts filed herewith a sum of Rs. ~~24715-8-3~~ 24749-7-3 is due to the plaintiff towards this account.

4. That the plaintiff learns that the first defendant has sold item number 2 of the schedule to the second defendant, who is now in possession thereof. Item 1 is no longer in existance having been acquired by the Trust Board. The Plaintiff learns that subsequent to his purchase the second defendant has mortgaged item 2 and other properties in favour of the deceased father of the 3rd defendant. Therefore defendants 2 and 3 have been arrayed as parties to this suit.

5. That inspite of repeated demands and lawyers notices the defendants have not paid the amount hence the suit.

6. That the cause of action arose on 6-1-19 in Mysore within the jurisdiction of this hon'ble court. As the first defendant has acknowledged his liability on 19-6-24 as stated above in para 3, the suit for personal relief also against him is in time.

7. That the value of the suit for the purposes of jurisdiction and court fee is Rs. 24749-7-3 on which court fee of Rs. 1108/- is paid herewith.

Therefore the plaintiff prays that a decree may be passed under order 34 rule 4 for Rs. ~~24715-8-3~~ 24749-7-3 costs and current interest against the 1st defendant and the schedule properties.

Schedule:-

1. House No.D/6 situated in Krishnarajamohalla, Mysore, is bounded on the East by

by Vardhamaniah's compound, West by Road, North by Old Post Office and South by Curzon park.

2. House No.920 situated in Krishnaraja Mohalla, Mysore, is bounded on the East by Bale urs compound, West by street, North by ~~xxxxxx~~ Sirdar Gopala Krishne Urs' house and South by lane.

for The Bank of Mysore, Ltd.

sd/ K. [illegible]swamiah,
Manager, Mysore Branch

Copy

To

The District Judge

Mysore

Sir

I am directed to acknowledge receipt of the Summons and copy of plaint in O.S. 14 of 27-2 (Bank of Mysore Ltd. vs. K. Ram & others) and to inform you that the Public Prosecutor, Mysore has been requested to appear for the Government in the case.

To

The Public Prosecutor
Mysore

Sir

I am directed to request you to appear for the Government of Mysore in O.S. 14 of 27-28 (Bank of Mysore vs Sirdar M. Gopal Raja Urs, M. Venkatas & Others on the file of the District Judge, Mysore, and to take an adjournment for defen The Copy of the Plaint is enclosed herewith and the

Suit is posted to 25th June 1929 Further instructions will be sent in due course.

Thereby

M

Registrar

MP

1.629

From

The Public Prosecutor & Govt. Pleader,
Mysore Division, Mysore.

To

The Chief Secretary to Govt. of Mysore,
Bangalore.

Dated 27th June 1929.

Despatched

Received

General No. 660/28-29.

Enclosure No. One vakalat form

N 2826

Sir,

With reference to letter No. P 7573-(1) Law 131-28 Dated 22nd inst. of the Secretary to Government, Law Department, requesting me to appear on behalf of Government and take an adjournment for filing defence in O.S. No 14/27-28 (Bank of Mysore Vs M. Gopala raj Urs and others) I have the honour to state that in compliance with the said requisition I appeared before the District Judge, Mysore in connection with the case both on the 25th and 26th inst. on which dates the suit came on for hearing and stated that I would file the Vakalat and written statement on behalf of Government of Mysore on the adjourned date of hearing. Accordingly the case was adjourned to 15th of next month for the filing of statement with Vakalat.

You will therefore return to me the Vakalat form herewith sent after duly signing the same. On receipt of further instructions, I will [illegible]

have been promised to be sent to me by the Law Secretary as stated in his letter, I shall prepare the defence statement and send it to you for your acceptance and return with your signature.

A sum of Re. 1-8-0 may also be sent with the Vakalat form for the expenses of Vakalat Stamp etc.

I have the honour to be,

Sir,

Your most obedient Servant,

Public Prosecutor & Govt. Pleader.

ಕೋರ್ಟಿನಲ್ಲಿ.

ಸನ್ 19 —19 ನೇ ಇಸವಿ

ವಾದಿ

Bank of Mysore Ltd

ಮೊಕದ್ದಮೆ ನಂಬರು

ಪ್ರತಿವಾದಿ

1. Sardar H. Gopalaraj Urs.
2. H. Ramakrao.
3. Thimmegowda minor by guardian Motha Yellamma.
4. Govt of Mysore. (Superintendent Dasarahalli)

VS

Mr. V. Sreenivasa Iyengar, B.A.,B.L., Govt. Pleader,
.....
Mr. L. Sreekantiah, B.A.,LL.B., Pleader, ... ಯವರಿಗೆ

ಕಳಿಪ್ರತಿ ಬರೆಸಿಕೊಟ್ಟ ವಕಾಲತ್‌ನಾಮೆ

1. ಮೇಲ್ಕಂಡ ಮೊಕದ್ದಮೆಯಲ್ಲಿ ತಾವು ಪರವಾಗಿ ಆಖೈರುವರೆಗೂ ಕೋರ್ಟಿನಲ್ಲಿ ವಿವಾದ ಜರುಗಿಸಲಿಕ್ಕೂ, ಪರವಾಗಿ ಆಗುವ ಎಲ್ಲಾ ವಿಧವಾದ ಆರ್ಡರನ್ನೂ, ಡಿಕ್ರಿಯನ್ನೂ, ಜಾರೀಕ್ರಮ ವಗೈರೆಗಳನ್ನೂ ನಡೆಸಿ ಹಣ ವಸೂಲ್ ಮಾಡಿಕೊಳ್ಳುವುದಕ್ಕೂ, ಕೋರ್ಟಿನಿಂದ ಸ್ವೀಕರಿಸಲ್ಪಬೇಕಾಗುವ ಡಿಕ್ರಿ ಮೊಬಲಗು, ಶಿಲ್ಕು ಮೊಬಲಗು ನುತ್ತು ರೀಫಂಡಾಗತಕ್ಕ ಮೊಬಲಗು ಮತ್ತು ಸ್ಟಾಂಪನ್ನು ಪಡೆಯಲಿಕ್ಕೂ, ದಸ್ತೆ ವೈಜು ವಗೈರೆಗಳನ್ನು ವಾಪಸು ಪಡೆಯಲಿಕ್ಕೂ ಮತ್ತು ಈ ಸಂಬಂಧವಾದ ಇತರ ಕಾರ್ಯಗಳನ್ನು ಮಾಡುವುದಕ್ಕೂ ಸಹ ಈ ಮೂಲಕ ತಮಗೆ ಸಂಪೂರ್ಣ ಅಧಿಕಾರವನ್ನು ಕೊಟ್ಟಿದೇ .

2. ಈ ಆಧಾರದಮೇಲೆ ತಾವಾಗಲೀ ತಮಗೋಸ್ಕರ ಮತ್ತಾವ ಆಯಂಬಗಲೀ ಡಿಟೋ ಮೊಖದ್ದಮೆಯಲ್ಲಿ ನಡೆಸುವ ಕೆಲಸಗಳನ್ನು ಖುದ್ದು ಇದ್ದು ನಡೆಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಬದ್ಧ ಗಿದ್ದೇ

3. ಈ ಕೇಸಿನಲ್ಲಿ ತಮಗೆ ಫೀಜು ಬಾಕಿ ನಿಂತಲ್ಲಿ ತಾವು ಕೇಸು ನಡೆಸದೆ ಬಿಟ್ಟು ಬಿಡಬಹುದೆಂತ ಈ ಮೂಲ್ಕ ಒಪ್ಪಿರುತ್ತೇ .

From

The Public Prosecutor & Govt. Pleader,

Mysore Division, MYSORE

To

The Chief Secretary to Govt. of Mysore,

BANGALORE

Dated 27th June 1929.

Despatched

Received

General No. 660/28-29.

Enclosure No.

Sir,

With reference to letter No. P 7573-(1) Law 131-28 Dated 22nd Inst. of the Secretary to Government, Law Department, requesting me to appear on behalf of Government and take an adjournment for filing defence in O.S. No. 14 of 27-28 (Bank of Mysore Vs. M. Gopala Raj Urs and others) I have the honour to state that in compliance with the said requisition I appeared before the District Judge, Mysore in connection with the case both on the 25th and 26th inst. on which dates the suit came on for hearing and stated that I would file the Vakalat and written statement on behalf of Government of Mysore on the adjourned date of hearing. Accordingly the case was adjourned to 15th of next month for the filing of statement and vakalat.

You will therefore return me the Vakalat form herewith sent after duly signing the same. On receipt of further instructions which have been

been promised to be sent to me by the Law Secretary as stated in his letter, I shall prepare the defence statement and send it to you for your acceptance and return with your signature.

A sum of Rs 1-8-0 may also be sent with the Vakalat form for the expenses of Vakalat stamp etc.

I have the honour to be,

Sir,

Your most obedient Servant,

Sd/ K. Sreenivasa Iyengar.

Public Prosecutor & Govt, Pleader.

No. 664/28-29.

Copy of the above is forwarded with compliments to the Secretary to Government of Mysore, Law Department, Bangalore, for information.

Public Prosecutor & Govt. Pleader.

If necessary may kindly be sent immediately to enable me to draft the defence statement & submit the same to you for advance perusal before the adjourned date of hearing.

27.6.29

Appendix F G 1

SUBJECT.....

.....

.....

Section Land

File No. 131-28

Serial No.

No. P.250

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

Date of issue 11-7-29

Signed by M. 'hS.

To

K. Ramaswamiah Esq B.A.
P.L.I.M. Prosecutor
Mysore

Sir,

In continuation of this office letter No: P7573/Land 131-28 -3 dated 22nd June 1929 ~~Regarding~~ Regarding O.S. 14 of 27-2 (Bank of Mysore vs Sridar M. Gopala Raj Urs & Others) on the file of the District Judge, Mysore, which is said to be ~~fixed~~ posted to 15th July 1929 for defence, I am directed to state that the Govt have been made

over

List of enclosures .....

Copied by Le. M.

Examined by.....

WD 0399—GPB—20,000—18-9-28

defendants in this mortgage Suit, since they have purchased the right, title and interest of the 2nd defendant Mr. M. Rangarao for amounts due by him under his Excise Contract. Under the circumstances Government cannot dispute the claim of the prior mortgagees and I am to request you to take necessary steps to safeguard the right of government to any surplus that may remain after satisfying the prior claims.

A report of the further progress of the case may be sent in due course.

I have etc

Sd/-

Yr Legal Adv

Dy

10/7/[illegible]

Public Prosecutor's Office,
Mysore Division,
Mysore. Dated 10th July 1929

No 15
Cur 2

From.
K. Ramaswami Ayya Esqre
Ba. Bl.
Public Prosecutor,
Mysore

To. The Chief Secretary
to Government of
H H the Maharaj of Mysore
Bangalore

Sir,

Consequent on the retirement of Mr M. Srinivasa Iyengar Vakalatnamas have to be filed in the marginally noted Cases I have the honor to enclose herewith fresh Vakalatnamas duly filled in and to request that they may be signed and returned at your early convenience.

I have the honor to be,
Sir
Your most obedient Servt
Public Prosecutor

Appendix F G—1

SUBJECT.....

.....

.....

Section Law

File No. 131-28

Serial No. 5—

No. 1447(2)

Diary No. of letter replied to.....

General and Revenue Secretariat

(

the *192*

To

The Public Prosecutor

Mysore

Date of issue..... 18/7/29

Signed by ..... M. N.S.

Sir,

I am directed to return herewith the two Varalatnamas duly signed by the Chief Secretary, as required in your letter No: 15 dated 10th July 1929.

Yours etc

List of enclosures.....

Copied by.....

Examined by.....

over

46

587/929

WD 546-GPB-50,000-4-9-8

1929-30.

From

The Public Prosecutor,

Mysore Division.

To

The Secretary to the Government

of H. H. the Maharaja of Mysor

Law Department, BANGALORE.

Dated 29th July 1929.

Despatched 29.7.29.

Received

General No.

No. 46

Enclosure No. two.

Sir,

With reference to your letter No.P. 250 dated 11-7-1929 regarding the claim of the Government in respect of the - property of Mr. Ranga Rao and O.S.14 of 1927-28 on the file of the District - - Judge, Mysore, I have the honor to submit the enclosed statement of facts. I request that instructions may issue if in the circumstances explained the Government can claim marshalling.

The suit is posted for hearing of defence to 5-8-1929.

I have the honor to be

Sir,

Your most obedient servant,

Public Prosecutor,

Mysore Division.

In the Court of the District Judge, Mysore

Original Suit No.14 of 1927-28.

The Bank of Mysore

Versus

(1) Sardar M. Gopalraj Urs

(2) M. Ranga Rao

(3) Nidagatta Thimmegowda

(4) Government of Mysore

Statatement of Facts.

Sirdar M. Gopalaraj Urs was the owner of 3 items of property, Viz.,

(1) Bungalow and site at Old Post Office Road, Mysore. (A)

(2) Bungalow and garden at Halo Agrahar, Mysore. (B)

(3) House in Fort. (C)

They were mortaged to the Bank of Mysore on 6-1-1919 to secure loans, overdrafts, cash credits etc., In the following year the - Sirdar sold (A) to M. Ranga Rao for Rs.36,000/-, out of which Rs.16000/- were left with the vendee with direction to pay the Bank of Mysore, - towards the above debt. But no money was ever paid to the Bank by Ranga Rao who however took possession of (A) and has lived there till to-day.

(2) The Sirdar made certain payments to the Bank.

(3) (C) Property was acquired by the City Improvement Trust Board for Rs.40,000/-. Out of the compensation Rs.24,000/- were paid to the Bank and the balance to the Sirdar.

(4) Ranga Rao hypothecated the site (part of A) to Nidagatta Thimmegowda for Rs.6000/-. Thimmegowda filed a suit for interest only

in the First Munsiff's Court and obtained a decree before the present suit was filed.

(5) On 10-6-1924 the Sirdar was found due to the Bank in a sum of Rs.25,950/-. In the same year Ranga Rao became a defaulter to - Government to the extent of Rs.31,000/-. All his properties including (A) were attached and finally sold on 5-6-1928, and purchased by the Government subject to the previous encumbrances due to the Bank of Mysore and Thimmegowda.

(6) O. S. 14 was filed against the first three defendents. I appeared for Sirdar Gopalraj Urs and filed written statement copy of which is enclosed. Subsequently the Bank issued notice, under - - Section 80. C.P.C. and impleaded the Government as 4th defendent.

(7) Although the Government have purchased (A) subject to encumbrances they would in my opinion be entitled ~~to~~ under Section 56 of the T. P. Regulation to claim marshalling and plead that item (A) be sold first to satisfy the balance. Item (A) is valued at Rs.40,000/-, and item (B) at Rs.10,000/-. The Bank dues would be reduced to that extent and the Government might realise by the sale of (A) about - - Rs.10,000/- after paying off the encumbrances.

(8) With a view to see if there are grounds to claim marshalling in this suit a clerk of the District Excise Office was deputed to - - ascertain the recitals embodied in the sale deeds of Sardar Gopalraj Urs in favour of Ranga Rao. The clerk's reports that the premises - have been sold under two conveyances and portions of purchase money were left with Ranga Rao for payment to the Bank. ([illegible] 10,000/-(Sale deed dated 8-4-20) [illegible]

ಬ್ಯಾಂಕಿನ ಸಿಕ್ಕಿ ತೀರ್ಪಿನ ಪ್ರಕಾರ ಆ ಬಂಗಲೆಯನ್ನು ಸರ್ಕಾರದವರು ಹರಾಜಿನಲ್ಲಿ ಕೊಂಡುಕೊಳ್ಳಲು
ಕಂಪನಿಯವರಿಗೆ ಕೊಟ್ಟ ಮುಂಗಡ ಹಣ ರೂ 6000/- (Sale deed dated 1-4-20)

(9) In my humble opinion the Government are unable to claim marshalling because, (1) under section 56 of T. P. Regulation the right exists only between the seller and the buyer, (2) the recitals in the sale deeds obtained by M. Ranga Rao appear to constitute a - " Contract to the contrary" within the meaning of section 56 of the T. P. Regulation.

(10) M. Ranga Rao in his written statement pleaded that the securities should be marshalled. The plaintiff Bank in reply has - stated that there is no right of marshalling in as-much-as the Sarda sold the bungalow to him on the express condition that Rs.16,000/- should be paid to the Bank towards the suit debt.

Issues are not yet framed.

Under the circumstances set forth above instructions are soli ed as to the propriety of claiming marshalling in the written statem to be filed on behalf of the Government.

A. [illegible]

Public Prosecutor

In the Court of the District Judge, Mysore,

O. S. 14 of 27-28.

Bank of Mysore. Plaintiff.

Versus.

Sardar M. Gopalraj Urs and others. Defendants.

Written Statement filed by the 1st Defendant.

1. The allegations contained in the Plaint are all admitted.

2. This defendant sold item 2 of the plaint schedule to the second defendant in the year 1920-21 and the second defendant agreed to pay to the Bank towards the first hypothecation debt an aggregate sum of Rs.16,000/-.

3. Since the 2nd defendant has been in possession and enjoyment of the property sold to him he is liable to pay Rs.16,000/- plus interest due thereon to the Bank up till now.

4. The plaintiff Bank has recovered from this defendant more than what the second defendant owes to this defendant. A correct calculation of what is so paid by this defendant will be made and submitted to Court at the next hearing.

5. The excess amount thus due to this defendant by 2nd defendant being part of the purchase money due to this defendant in respect of the sale to 2nd defendant, must be regarded as a charge on the second item of the plaint schedule property.

6. This defendant will separately proceed against 2nd defendant to realise the said charge.

7. This defendant learns that the Government of Mysore have purchased the properties subject to all the previous encumbrances due

by the 2nd defendant. Under O 34 R 1 C. P. C, Government being the owner of the equity of redemption are a necessary party to this suit.

8. This defendant therefore prays that notice under O 1 R 10 be sent to the Chief Secretary to Government and implead him as a party defendant. Failure to implead the Government of Mysore as a party will not only vitiate the suit but will not dispose of all the issues that may arise for determination.

(Sd.) K. Ramaswamy
Advocate for 1st Defendant
27-9-28.

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the 192

Date of issue 2/8/29

Signed by .....

st of enclosures.....

Copied by.....

Examined by.....

Section Leave

File No. 131-29

Serial No. 7

No. 1798

To

The Public Prosecutor
Mysore

Sir,

With reference to your letter No 46 dated 29th July 1929, regarding the defence ~~to the~~ to be filed on behalf of Government in O.S. 14 of 27-28 on the file of the District Court, Mysore, I have the honour to state that Government cannot claim marshalling under section 56 of the Transfer of Property Regulation. I would, however, suggest your perusing the original or a certified copy of the mort-gage deed on the facts you have furnished or S-81(2)

over

Since the Surrender by
Mr Kanakas is subject
to the prior mortgage in
favour of the Bank and
Consequently there is a
Contract to the Contrary,
making the said section
inapplicable

Thank

Legal

DNP

1.8.80

862 of 1929

Law 131-26-8

WD 546—(APB—50,000—9-28

192 9.

From

The Public Prosecutor
Mysore Division

To

The Secretary
to the Govt. of H.H. the
Maharaj of Mysore,
Law Department
Bangalore

Dated 13th August
Despatched 1929.
Received

General No.
No. 86

Enclosure No. Two

H 9-22-8-29

Sir

With reference
to your letter P 798
dated 2-8-29, I have
the honor to state
that the sale deed
executed by Sundar
Gopal Raj Urs in
favor of M. Rangaiah
contain the recitals
noted in the enclosure

I personally
went to the Sub-Regr
Nanjangud's office and
examined the register
to find out the

exact wordings of the recitals

In view of the clear condition
specified in the sale deeds, Mr Rang
Rao has agreed to liquidate the debt
due to the Bank by the exhibit of
Rs 16000/. The said claim represents
none other than the amount of principal
of Rs 16000/- plus interest thereon from
1920.

I therefore submit that my opinion
regarding that the Government are not
in a position to claim marshalling
the securities.

The enclosed draft written
statement may be approved and
returned duly signed by the Chief
Secretary to Govt. The case is
posted to 22-8-29 for filing
the defence.

I have the honor to be,
Sir
Your most obedient servant

K Ramaswamy

Public Prosecutor
Mysore

Enclosure to letter No dated

Extracts from sale deeds executed by Sridar Gopal Rao in favour of M. Rangarao

(1) Sale deed for Rs 20000/- No 367 of 19-20. dated 8.4.20

(2) ~~Sale deed for Rs 12600/- No 3~~

"ಸದರಿ ಕ್ರಯಕ್ಕೆ ಶ್ರೀಯುತರು ಒಪ್ಪಿಕೊಂಡಂತೆ ನಿಮ್ಮ ಸ್ವಾಧೀನದಲ್ಲಿರುವ ಮತ್ತು ಅನುಭವದಲ್ಲಿರುವ ಸರ್ವೆ ನಂ 3 ರಲ್ಲಿ ಒಟ್ಟು 1 ಎಕರೆ 20 ಗುಂಟೆ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಇರುವ ಎಲ್ಲಾ ಹಕ್ಕುಗಳನ್ನು ಮತ್ತು ಸ್ವಾಮ್ಯವನ್ನು ಶ್ರೀಯುತರಿಗೆ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುವುದಕ್ಕ

SUBJECT.....

.....

.....

Section Law

File No. 131 of 28

Serial No. 9

No. D 1136/Secy

Diary No. of letter replied to.....

General and Revenue Secretariat

( )

the *192*

To

The Public Prosecutor 86

Mysore

Date of issue 17-8-29

Signed by M. N.

Sir

With reference to your letter No: 86 dated 13 8/29, I am directed to return herewith the written statement duly signed by the Chief Secretary, on 22-8-29 to be filed (in O.S. 14 of 29-30) on the file of the District Court Mysore

Bangalore

Manager

W for Se

by

16/8

16/8

List of enclosures.....

Copied by.....

Examined by.....

From
The Public Prosecutor
Mysore Division

To
The Secretary
to the Govt. of H.H.
Maharaja
Mysore. Law Depart.
Bangalore

Dated
Despatched 14.9.29

Received

General No.
No. 139

Enclosure No.

C.C. 14 of 27. 28 on the file of the District Judge Mysore

Sir

I have the honor to report that the above noted suit came on for hearing on 9.9.29 and a decree was passed by consent of parties It is ordered that the hypothecated properties be sold

and the surplus if any, remaining out of the realizations after — satisfying the claims of the Bank of Mysore and Nidy Timmegowda may be paid to the Government. Marshalling was not allowed either in favor of the Government or in the case of the 2nd mortgagee Nidigatta Nimmegowda

Have the honor to be
Sir
Your most Obedient Servt
K [illegible]
Public Prosecutor
Mysore division